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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,588	01/21/2004	Stanley C. Hewitt	22498.01	1118

7590 11/03/2004

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EXAMINER

VASUDEVA, AJAY

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/760,588

Applicant(s)

HEWITT, STANLEY C.

Examiner

Ajay Vasudeva

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,6 and 12 is/are rejected.
- 7) ☒ Claim(s) 2,4,7-11 and 13 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/21/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. On page 1 (line 2), after "Serial No. 10/463,436, filed June 18, 2003", insert -- , now abandoned --.

Abstract

2. The Abstract of the application is objected to because it is too long.

Applicant is reminded that the abstract of the disclosure should be limited to a single paragraph within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited.

Further, the abstract should be a concise statement of that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement.

Claim Objections

3. Claim 9 is objected to because the numbering of claim is improper. It appears that due to a typographical error, claim 9 has been misnumbered as claim 8.

A correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Kruchowski (US 4,083,610 A).

Kruchowski shows a drive track assembly, having a frame [16], a hydraulically driven drum [30] (see col. 3, line 60) supported between the inboard and outboard support members [18a, 18b] of the frame at the first end, and an idler [34] supported by the second end of said frame. Plurality of road wheels [50] is supported by the frame, and is disposed in line between the hydraulically driven drum and the idler. An endless belt track member [40] is entrained about the hydraulically driven drum, the idler, and the wheels.

Claim Rejections - 35 USC § 103

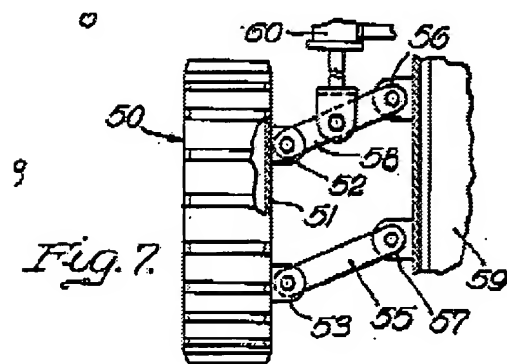
6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 1, 3, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bertelsen in view of Berardi.

Bertelsen shows a hull [1, 59] of a ground effect vehicle, a track drive assembly [50] pivotally attached to the hull, and a plurality of hinges [55, 58]. A power cylinder [60] comprising a ram is disposed between the hull of the vehicle and the track drive assembly, and is drivingly operable to pivot the track drive assembly through an arc about a longitudinal axis (see figure 7). Although the drawing of Bertelsen shows only a first track drive assembly [50] pivotally attached to a first side of the vehicle, a second track drive assembly is symmetrically attached to the second side of the vehicle.



Re claims 5 and 6, Bertelsen does not specifically identify the power cylinder as being a hydraulic cylinder, or the cylinder being supported above the hull.

Berardi shows use of hydraulic power cylinders [24] for pivoting the track drive assemblies of a vehicle.

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It would have been obvious for one skilled in the art at the time of the invention to employ hydraulic cylinders for pivoting the track drive assemblies of Bertelsen, as taught by Berardi. Employing hydraulic mechanism to power the rams would have allowed the cylinders to pivot heavy loads with minimum power expenditure, and would have provided a durable and reliable means to pivot the track drive assemblies.

Further, it would have been obvious for one to support the power cylinder substantially above the hull such that the power cylinder could easily pull the track up to a maximum height to provide proper clearance from the hull bottom edge, as well as to ensure that the power cylinder did not get squeezed between the hull and the track when the track is in a lifted position.

Applicant may note that the ground effect vehicle are such vehicles which are capable of amphibious operations over land as well as water, as also explained in US 5,181,478 A (WEILAND), column 1, line 17. Therefore, the ground effect vehicle of Bertelsen is considered an amphibious vehicle.

Allowable Subject Matter

8. Claims 2, 4, 7-11, and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record in the attached PTO Form 892, but not yet relied upon, is considered pertinent to applicant's disclosure.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (703) 306-5992. The examiner can normally be reached on Monday-Friday 1:00 pm--5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


AV

Ajay Vasudeva
Examiner
Art Unit 3617


S. JOSEPH MORANO
SUPERVISORY PATENT EXAMINER
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